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OIG: Take a 'Hard Look' at Speaker Programs; AKS Compliance May Require a Tracking System

By Nina Youngstrom

Speaker programs should get a “hard look” from the pharmaceutical and device manufacturers that sponsor them and the physicians who participate, according to a senior counsel from the HHS Office of Inspector General (OIG). They might decide to step back from speaker programs in the wake of high-profile prosecutions and a November 2020 OIG special fraud alert^[1] that warned about the risks of speaker programs under the Anti-Kickback Statute.

“As we move beyond the pandemic, we encourage everyone to consider the benefits and the risks of speaker programs and to reevaluate their policies around them,” said Maddie Bainer, senior counsel in the OIG’s Administrative and Civil Remedies Branch, at the Health Care Compliance Association’s March 5 regional conference in Washington, D.C.^[2] “Some companies may decide speaker programs are not worth the risk or the cost and maybe eliminate them entirely.” Other companies may stick with speaker programs or go the virtual route. Whatever path they take, Bainer suggested companies consider whether they need to make changes based on the fraud alert’s list of “suspect characteristics.”

Everything she said applies equally to physicians and other health care practitioners (HCPs) who attend or present at speaker programs. “We hold individual HCPs liable for their role in improper referral arrangements,” Bainer said. “There are serious fraud and abuse risks for anyone holding or attending speaker programs.”

Speaker programs are events sponsored by pharmaceutical or medical device manufacturers where physicians and other HCPs make a speech about a drug, device or disease state on behalf of the company, according to the fraud alert. The company typically pays the HCP an honorarium for speaking and gives remuneration (e.g., free meals) to attendees. Whether speaker programs and other arrangements involving remuneration to a referral source violate the Anti-Kickback Statute depends on the facts and circumstances and the intent of the parties, according to OIG.

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